

LEND-LEASE SETTLEMENT: MARITIME CLAIMS AND LITIGATION

*Agreement signed at Washington March 14, 1949, supplementing
memorandum of understanding of May 28, 1946
Entered into force March 14, 1949*

63 Stat. 2499; Treaties and Other
International Acts Series 1935

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES AND THE GOVERNMENT OF FRANCE RESPECTING MARITIME CLAIMS AND LITIGATION

The Government of the United States of America and the Government of the French Republic, desiring to avoid between themselves and between their nationals litigation in matters of maritime transportation, and desiring to carry out the terms and spirit of paragraph 6(b) of the Memorandum of Understanding Regarding Settlement for Lend-Lease, Reciprocal Aid, Surplus War Property, and Claims, dated May 28, 1946,¹ agree as follows:

ARTICLE I

Each of the Contracting Governments hereby waives all claims against the other Contracting Government or against any servant or agent of such Government in any case where such servant or agent is entitled to indemnity from his or its Government, arising as follows:

(1) Claims arising out of loss of or damage to the vessels, cargoes, aids to navigation, shore structures or port installations, fixed or movable, owned by one Contracting Government, caused by the navigation, operation, construction or location of the vessels, cargoes, aids to navigation, shore structures or port installations, fixed or movable, owned by the other Contracting Government.

(2) Claims arising out of salvage services, including temporary repairs incidental to the salvage itself, rendered by one Contracting Government or by any organization owned or so controlled by it as to authorize it to make this waiver on its behalf, to any vessel, cargo or freight owned by the other Contracting Government.

¹ TIAS 1928, *ante*, p. 1126.

(3) Claims for loss of or damage to cargo owned by one Contracting Government arising out of the carriage or handling thereof and claims for the loss of or damage to any cargo or vessel owned by one Contracting Government caused by the carriage or handling of cargo owned by the other Contracting Government.

(4) Claims of one Government for general average contribution against the other Government, or against the vessels, cargo and freight owned by it.

Each Contracting Government undertakes not to make any claim in respect of any vessels or cargo insured by it to which it may be entitled by virtue of any right of subrogation either

- (a) directly against the other Contracting Government, or
- (b) in any case where such other Government represents that such claim if made would ultimately be borne by such other Government.

(5) Nothing in this Article, or elsewhere herein, shall be construed to waive any claims of the French Government, as an insured, under policies of hull insurance effected by the United States Government on vessels bareboat chartered to the French Government and time chartered back to the United States Government.

ARTICLE II

Where in any case claims arise which are not required to be waived by this Agreement in addition to or in conjunction with claims which are so required to be waived, and it is necessary in any proceedings including proceedings for the limitation of liability that claims be marshalled or for the proper assessment of any salvage or general average that values should be estimated, the provisions of this Agreement shall not apply, and in consequence claims which would otherwise be required to be waived under this Agreement shall be asserted. Any recoveries, however, shall be waived by the Government entitled to such recoveries or at the option of such Government shall be dealt with in such other way as will give effect to the purposes of the Agreement.

ARTICLE III

(1) The ownership referred to by the word "owned" as used in this Agreement shall include the interest which one of the Contracting Governments may have in a vessel or cargo by reason of the assumption by such Government, whether under charter, requisition or decree or by virtue of insurance, indemnity, or otherwise, of rights, or liabilities, or both, of the owners of such vessel or cargo respectively, notwithstanding the fact that any such interest may be insured or reinsured with private underwriters.

The expression "vessel owned by a Contracting Government" includes but is not limited to a vessel on bareboat charter to a Contracting Government or requisitioned by the Contracting Government on bareboat terms, or time

chartered to or otherwise operated by or for a Contracting Government on terms which authorize such Government to make this Agreement effective with respect to such vessel. The term "vessel" shall include a naval vessel.

(2) Each Government represents that, by reason of this Agreement or arrangements made in connection therewith, any insurance which it may cause to be taken out or which it has caused to be taken out on any ship or cargo being the property of such Government, or of any wholly-owned agency or instrumentality of such Government, is, wherever any waiver provided for in this Agreement would in the absence of such insurance apply,

- (a) free of claim in respect of any liability of the insured interest towards the other Government and
- (b) without recourse against such other Government.

(3) In order to carry out the full intention of the provisions of Article I of this Agreement each Contracting Government will so arrange in connection with bareboat charters to it of vessels subject to the terms of this Agreement that the owners or persons interested through such owners shall not have or assert any claims of the character specified in Article I.

ARTICLE IV

Nothing in this Agreement shall be construed as a waiver of the right of either Contracting Government in appropriate cases to assert sovereign immunity.

ARTICLE V

Claims asserted or about to be asserted against one Government in the courts of the other Government by nationals of that other Government for damages of the categories which, as between the two Governments, are made the subject of waiver by Article I, and claims for personal injury by such nationals arising out of activities referred to in said Article I, will be paid or otherwise disposed of as matters of lend-lease and reverse lend-lease, each Government effecting the payment, settlement or other final disposition of all such claims. In general, one Contracting Government will at the request of the other take such steps as may be necessary to release vessels and cargo belonging to the other Government from legal action brought in a court of the former Government. Such aid shall be granted with respect to claims asserted or about to be asserted in the courts of each Government.

ARTICLE VI

Affirmative claims of either Government against the nationals of the other Government arising out of maritime incidents shall be tendered to the other for handling before being otherwise pressed in the courts of the other Government. The amounts thus recovered will be credited to lend-lease and reverse lend-lease accounts.

ARTICLE VII

Each Government shall prescribe the procedure for the investigation and disposition of claims to be paid by such Government pursuant to Articles V and VI after consultation with the other Government.

ARTICLE VIII

(1) The intergovernmental waiver provisions of this Agreement embodied in Articles I to IV shall apply in respect to all claims arising from incidents that occurred on or after December 7, 1941 and prior to July 1, 1946.

(2) The lend-lease and reverse lend-lease provisions of this Agreement, embodied in Articles V and VI, shall apply with respect to all claims arising from incidents that occurred on or after December 7, 1941 and before November 1, 1945 and remaining unsettled as of the date of signature of this Agreement, the payment or collection of all such claims being credited or debited to lend-lease and reverse lend-lease accounts.

(3) Articles I to IV shall be applicable without territorial limitation. Articles V to VII shall be applicable to maritime navigation on the high seas and to territorial waters and inland waterways of both countries.

ARTICLE IX

This Agreement will enter into force upon the date of signature. The Agreement is applicable, as to the Republic of France, to the metropolitan territories, to the departments and territories overseas, to the associated states, to the trusteeships and to territories under the protection of the Republic of France, and, as to the United States, to the forty-eight states, to the District of Columbia, and to the territories and island possessions of the United States.

DONE at Washington, in duplicate, in the English and French languages, both texts being equally authentic, this 14th day of March, 1949.

For the Government of the United States of America:

DEAN ACHESON
*Secretary of State of the
United States of America*

For the Government of the Republic of France:

H. BONNET
*Ambassador Extraordinary and Plenipotentiary
to the United States of America*